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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,974	12/11/2003	Peter J. Rebello	EKEI.PAU.01	8527
23386	7590	07/12/2005		EXAMINER
MYERS DAWES ANDRAS & SHERMAN, LLP 19900 MACARTHUR BLVD., SUITE 1150 IRVINE, CA 92612			JACYNA, J CASIMER	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/732,974	REBELLO, PETER J.
	Examiner J. Casimer Jacyna	Art Unit 3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 16 June 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-23 is/are pending in the application.  
 4a) Of the above claim(s) 15, 17, 18 and 21-23 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-14, 16, 19 and 20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12112003</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15, 17, 18 and 21-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/15/2005.

4. Claims 1-4, 6-11, 13, 14, 16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Booth et al. Booth discloses a ball valve including a body 20, an inlet 12, an outlet 14, a first opening 26, a second smaller opening 39, and a valve stem 18 that will indicate the fluid flow rate based upon the movement of handle 16 with the stem 18 as disclosed on col. 5, lines 15-56. In regard to claim 4, Booth discloses the use of a computer that is an indicator connected to the valve stem as disclosed on col. 4, lines 17-33. In regard to claim 8, Booth discloses stem lock nuts on both distal ends of valve body 20 surrounding the ends of 20 and securing the flanges of inlet and outlet nipples 12 and 14. In regard to claim 9, Booth discloses a ball retaining fitting as is the element surrounding passage 22 as shown in figure 2.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Booth et al. in view of Cappon. Booth discloses a rotational plug valve with the angle of the valve stem indicating the flow rate substantially as claimed but does not disclose hash marks. However, Cappon teaches another rotational plug valve with the angle of the valve stem indicating the flow rate having hash marks s for the purpose of providing a visual indication at the valve of the flow rate through the valve. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the valve of Booth with hash marks as, for example, taught by Cappon in order to provide a visual indication at the valve of the flow rate through the valve.

6. Claims 1, 2, 6, 7, 10, 11, 13, 14, 16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Lester et al. Lester discloses a ball valve including a body 12, an inlet 32, an outlet 34, a first opening 54, a second smaller opening 66, and a valve stem 46 that will indicate the fluid flow rate based upon the movement of handle 50 with the stem 46 as disclosed on col. 5, lines 1-27.

7. Claims 1-4, 6-14, 16, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marandi in view of Lester et al. Marandi discloses a ball valve including a body 12, an inlet and outlet passage 22, a first opening 26, a second smaller opening 46, and a valve stem 30 that will indicate the fluid flow rate based upon the movement of handle 36 with the stem 30 as disclosed on col. 6, lines 41-48. In regard to claim 4, handle 36 is a valve position indicator as claimed. In regard to claims 8 and 12, Marandi discloses a lock nut immediately below character 34 in figure 2A or element 434 in the prior art which serves to lock the valve stem as called for in claim 8 and also

secures the lower plate portion of the handle 36 to the valve stem as called for in claim 12. Note that claim 12 does not depend from claim 8. In regard to claim 9, Marandi discloses a ball retaining fitting as is the element surrounding character 22 as shown in figure 2A. Consequently, Marandi discloses a ball valve with a large inlet and a small outlet opening substantially as claimed but does not disclose a curved inner wall for the small outlet opening. However, Lester teaches another ball valve with a large inlet and a small outlet opening having a curved inner wall for the small outlet opening apparently for the purpose of reducing flow friction for the fluid flowing through the valve. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the valve of Marandi with a curved inner wall for the small outlet opening as, for example, taught by Lester in order to reduce flow friction for the fluid flowing through the valve.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Wed. thru Fri. 9AM-7PM, Mon. 7AM-1PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 703-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



J. Casimer Jacyna  
Primary Examiner  
Art Unit 3751

JCJ